

1-1005-8698-2

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of the Securities  
Broker-Dealer License of InvestAmerica  
Financial Services Corporation

FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge George A. Beck commencing at 9:30 a.m. on Thursday, May 5, 1994, at the offices of the Minnesota Department of Commerce, 133 East Seventh Street, in the City of St. Paul, Minnesota.

Michael A. Sindt, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (Department). The Respondent did not appear at the hearing. The record closed on May 5, 1994, upon the Respondent's default.

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Jim Ulland, Commissioner, Minnesota Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota 55101, telephone (612)297-3238, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not the Respondent's securities broker-dealer license should be suspended or revoked in accord with Ch. 80A for a violation of Minn. Stat. § 80A.07, subd. 1(4), or whether civil penalties should be imposed under Minn. Stat. § 45.027, subds. 6 and 7.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

#### FINDINGS OF FACT

1. On March 30, 1994, the Notice of and Order for Hearing and Order to Show Cause in this matter was mailed to the Respondent, via certified mail, at its last known address, 1750 Montgomery Street, San Francisco, California 94111.

2. The Order to Show Cause, Notice of and Order for Hearing mailed to the Respondent contained the following statement:

If Respondent fails to attend or otherwise appear at the hearing in this matter after having been served with a copy of this Order, the allegations herein may be deemed true without further proof, Respondent shall be deemed in default and Respondent's securities agent license may be revoked or suspended.

Respondent may be censured and/or a civil penalty may be imposed upon Respondent without further proceedings.

3. The Respondent did not appear at the May 5th hearing, it made no prehearing request for a continuance, nor did it file a Notice of Appearance.

4. That the allegations of the Order to Show Cause and Notice of and order for Hearing are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

#### CONCLUSIONS

1. That the Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 80A.07 and 14.50.

2. That the Respondent was given timely and proper notice of the hearing in this matter.

3. That the Department has complied with all relevant substantive and procedural requirements of statute and

4. That under Minn. Rule 1400.6000, the Respondent is in default as a result of its failure to appear at the scheduled hearing.

5. That under Minn. Rule 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved when a party defaults.

6. That based upon the facts set out in the Notice of and Order for Hearing, Order to Show Cause, and Statement of Charges, the Respondent has violated Minn. Stat. § 80A.07, subd. 1(4).

7. An order is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that disciplinary action be taken against Respondent's securities broker-dealer's license and that the Commissioner consider civil penalties.

Dated this \_\_\_\_ day of May, 1994.

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GEORGE A. BECK  
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.

